

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C., 20554

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of )  
 ) MM Docket No. 00-44  
Extension of the Filing Requirement )  
for Children's Television Programming )  
Reports (FCC Form 398) )

COMMENTS OF  
CENTER FOR MEDIA EDUCATION  
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ANNENBERG PUBLIC POLICY CENTER OF THE UNIVERSITY OF  
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NATIONAL ALLIANCE FOR NON-VIOLENT PROGRAMMING  
NATIONAL BLACK CHILD DEVELOPMENT INSTITUTE  
NATIONAL EDUCATION ASSOCIATION  
NATIONAL PTA  
("CME *et al.*")

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**COMMENTS OF**  
**CME *et al.***

**I. Introduction**

CME *et al.*, by their attorneys the Institute for Public Representation, respectfully submit these comments in response to the *Extension of the Filing Requirement for Children's Television Programming Reports (FCC Form 396)*, Notice of Proposed Rulemaking, MM Docket 99-360 (rel. April 6, 2000) ("*NPRM*"). CME *et al.* is a collection of public interest and child advocacy organizations and concerned citizens and academics whose common mission is to improve the quality and quantity of the educational opportunities available to our nation's children.<sup>1</sup> CME *et al.* commend the Federal Communications Commission ("FCC" or "Commission") for proposing to extend the Children's Television Programming Reports requirements and for seeking comment on ways in which to improve the reporting process. *See NPRM* at ¶ 1. The Commission's reporting requirements are essential to the continued vitality of the Children's Television Act ("CTA" or "Act"). These requirements serve the crucial purpose of informing parents, the public and the Commission as to how broadcast licensees are meeting their responsibility to serve the educational and informational needs of children. Moreover, they are indispensable to the Commission's enforcement of its children's programming rules.

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<sup>1</sup> See Appendix for a description of the organizations comprising CME *et al.*

Accordingly, CME *et al.* believe it is imperative that the Commission continue to require television licensees to periodically file their programming reports with the Commission. We also believe that the Commission could greatly improve the reporting process by taking a few additional steps to enhance access to information concerning children's educational television. Specifically, CME *et al.* recommend that the FCC: (1) require a broadcaster to electronically file its programming reports on a quarterly basis with the Commission, instead of annually; (2) amend FCC Form 398 to provide more information concerning a broadcaster's preemption practices, provision of programming information to program guide publishers, and efforts to publicize the existence and location of its programming reports; and (3) require a broadcast licensee to post its quarterly programming reports on its website. In addition, the Commission should take the initiative to make its own website more user-friendly for parents.

## **II. THE COMMISSION SHOULD CONTINUE TO REQUIRE BROADCAST LICENSEES TO PERIODICALLY FILE THEIR CHILDREN'S TELEVISION PROGRAMMING REPORTS WITH THE FCC.**

As the Commission notes in the NPRM, "the public information initiatives adopted in 1996 are an integral part of the children's programming rules." *NPRM* at ¶ 7. One of the principal ingredients of the public information initiatives is the requirement that broadcast licensees file with the FCC, on an annual basis, their quarterly Children's Television Programming Reports ("Reports"). *See Policies and Rules Concerning Children's Television Programming*, Report and Order, 11 FCC Rcd 10660, at 10683-95 (1996) ("*Children's Television Order*"). Because this requirement is necessary for effective monitoring and enforcement of the Act, CME *et al.* wholeheartedly agree with the Commission that the "requirement that broadcasters file these Reports with the FCC should be continued." *NPRM* at ¶ 9.

The Reports enhance the public and the Commission's knowledge of how broadcasters are meeting their obligation to serve the educational and informational needs of children. *NPRM* at ¶ 8. Because the Reports require a licensee to identify what programming it airs to meet the requirements of the CTA and the *Children's Television Order*, they make broadcasters more accountable to the public and the Commission. As the *NPRM* notes, public interest groups use the Reports to monitor licensees' compliance with the Act and the children's programming rules and to educate the public on disconcerting industry trends and practices.<sup>2</sup> The Reports are also indispensable to the Commission's enforcement of the CTA and the FCC's implementing regulations. For example, the Commission needs the Reports to effectively determine whether a licensee is complying with the three hour weekly minimum or whether a licensee is preempting an unacceptable amount of children's educational programming. *NPRM* at ¶ 10. In fact, without the Reports, any monitoring of broadcaster compliance with the Act and the children's programming rules would be incredibly difficult, if not impossible.<sup>3</sup>

Moreover, the Reports further the essential purpose of promoting parental awareness of children's educational programming. Among other things, the Reports give parents access to

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<sup>2</sup> Along with the organizations listed in the *NPRM* who use the Reports, *NPRM* at ¶ 10, other public interest and child advocacy groups who have used or plan to use the Reports include the American Center for Children and the Media, Center for Research on the Effects of Television, Center for Educational Priorities, Children Now, the Media Literacy Online Project, and Mediascope. Moreover, the Reports are integral to the academic research undertaken at centers such as the Children and Media Project in the Department of Psychology at Georgetown University and the Center for Communication and Social Policy at the University of California at Santa Barbara.

<sup>3</sup> In addition, the filing of the Reports plays an important role in a broadcaster's self-regulation. Requiring a broadcaster to self-audit its compliance and submit such review to the FCC increases the likelihood that a licensee will follow the rules.

information on what children's educational programming local broadcasters claim to provide, when the programming is aired, and the age for which the programming is intended. *NPRM* at ¶ 8. This access to information about educational programming directly furthers the Commission's intent to enhance parental knowledge of children's programming. *Children's Television Order*, 10660 FCC Rcd at 10682. In addition, parents can use the Reports to identify what programs they believe should or should not be considered educational and work with local broadcasters to improve the programming.

In sum, the filing of these Reports necessarily accomplishes the goals for which they are intended and there is no reason why the Commission should not permanently extend this filing requirement. The Reports facilitate monitoring of broadcasters' compliance with their programming obligations to children, are essential to the FCC's enforcement of its children's programming rules, and increase parental awareness of educational programming.

### **III. THE COMMISSION SHOULD TAKE STEPS TO IMPROVE THE ACCESSIBILITY OF THE PROGRAMMING REPORTS TO THE PUBLIC.**

In addition to extending the filing requirement, the *NPRM* seeks comment on how the reporting process could be improved. *NPRM* at ¶ 11. As discussed below, there are several ways in which the Commission could make this process better.

#### **A. The Commission Should Require Broadcasters to Electronically File the Programming Reports on a Quarterly Basis.**

Specifically, the Commission asks whether it should revise its rules to require the Reports to be filed electronically on a quarterly basis. *Id.* *CME et al.* agree with the Commission that this requirement would impose a minimal additional burden on broadcasters. *Id.* As the Commission explains, licensees are already required to place these Reports on a quarterly basis

in their public file. Submitting the Reports electronically to the FCC "should require only a few additional keystrokes." *Id.*

More importantly, electronic quarterly filing would give the public and the Commission more current information on broadcasters' compliance and ensure that broadcasters are meeting their programming obligations. From research and monitoring perspectives, quarterly filings are clearly preferable to annual because they give a timely snapshot of program offerings. Waiting for an annual January filing is not conducive to effectively reporting programming trends because the television season runs from Fall to Spring. Up-to-date quarterly filings would allow researchers to conduct their research and release reports in time to have a more immediate impact on the subsequent television season. Quarterly filings would also likely be more helpful to parents than annual because of their more current nature. Accordingly, CME *et al.* recommend that beginning January 10, 2001, the Commission should require all licensees to electronically file children's programming reports with the Commission on a quarterly basis.

**B. The Commission Should Amend FCC Form 398 to Provide More Information Concerning a Broadcaster's Children's Programming Practices.**

The NPRM also asks whether any revisions should be made to FCC Form 398. *Id.* at ¶11. CME *et al.* encourage any measures the Commission undertakes to make the Form more informative. In particular, CME *et al.* believe that the Commission should revise a few questions to provide the public with more information concerning: (1) why a broadcaster has preempted a children's educational program; (2) what program guide publishers are not printing the programming information provided by local broadcasters; and (3) what efforts broadcasters are making to publicize the existence and location of their Reports.

The NPRM specifically asks whether the Commission should revise Form 398 to include more information concerning a station's preemption of children's programming. *NPRM* at ¶ 11. Currently, item number five of Form 398 asks how many times a broadcaster preempted a particular program during the preceding quarter. *FCC Form 398* at 1. CME *et al.* recommend that Form 398 should also include an explanation for each preemption. Simply put, parents and the public should know why a station did not air an educational program at its regularly scheduled time. Currently, ABC, CBS, and NBC annually provide the Mass Media Bureau with information explaining the preemption of children's programming by their owned and operated stations ("O&O"). See *Request for Flexibility to Preempt Children's Educational and Informational Programming*, Public Notice, DA 99-184 (rel. July 29, 1999). For example, NBC discloses to the Bureau if an O&O preempted a particular program because of a sporting event or "breaking news." The Commission should require that all licensees - whether O&O, affiliate or independent - provide this information.

In addition, the Commission should amend question number four of Form 398. In a yes or no format, question four asks whether the licensee provides publishers of program guides with information identifying the broadcaster's educational "core" programming. *FCC Form 398* at 1. The Commission should revise question four to ask broadcasters to list the program guide publishers the licensee provided its programming information to and whether the publisher printed the information. This minor revision will accomplish two important goals. First, it will ensure that broadcasters are meaningfully complying with their duty to provide such information. Second, it may encourage program guide publishers to print the programming information provided by broadcasters. This is important because although it is unclear how much

information is being provided by broadcasters, there is substantial evidence that most newspapers and *TV Guide* are not publishing the information.<sup>4</sup>

The Commission should also revise question number eight of FCC Form 398. Question eight asks whether the licensee publicizes the existence and location of the station's Reports. *See FCC Form 398* at 2. A yes or no answer does not give sufficient information to determine whether a broadcaster is meeting its duty to publicize the Reports. The current framework allows a broadcaster to avoid any meaningful adherence to the rule. For example, a broadcaster who airs one five second announcement, at five o'clock in the morning, once a quarter, that cursorily mentions the existence and location of its Reports, could check yes to question eight. The Commission should revise question eight to ask a broadcaster to list exactly what it has done to publicize its Reports. Armed with this information, parents and child advocates who are dissatisfied with a broadcaster's performance can bring public and market pressure to bear on the licensee and persuade it to publicize its Reports in a more meaningful manner.<sup>5</sup>

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<sup>4</sup> *See* Kelly L. Schmidt, *THE THREE HOUR RULE: IS IT LIVING UP TO EXPECTATIONS?* at 7 (1999) (finding that "very few print media" carry children's programming information and noting that *TV Guide* recently stopped carrying the E/I icon); Letter of April 8, 1999, from Professor Julie Dobrow, Tufts University, to Congressman Edward Markey, (on file with counsel) (discussing a Boston area study of children's educational programming finding that none of the major newspapers or *TV Guide* published the relevant programming information). *See also* Amy Jordan, *THE THREE HOUR RULE: INSIDERS' REACTIONS* at 22 (1999) (highlighting the "continuing lack of coverage of children's television" in the print media in general); Sean Aday, *NEWSPAPER COVERAGE OF CHILDREN'S TELEVISION, A 1997 UPDATE* at 15 (1997) (concluding that "newspapers fail to adequately inform parents about quality children's programming").

<sup>5</sup> It would also be helpful to include a broadcaster's license renewal date in Form 398. The renewal date is a very important piece of information for parties who monitor station compliance. But this information is not on the Form, nor readily available to the average person. The average person does not know that the license renewal dates are listed in the Code of Federal Regulations, much less know how to find this information.



The above revisions to FCC Form 398 allow the Commission to "rely more on marketplace forces to achieve the goals of the CTA and facilitate[] enforcement of the statute by allowing parents, educators and others to monitor a station's performance." *Children's Television Order*, 10660 FCC Rcd at 10682. Moreover, none of the foregoing recommendations are overly burdensome in any sense of the word. To comply in good faith with the rules as they stand, broadcasters should already be maintaining records of their preemption practices, the publishers to whom they send their programming information to, and the steps they have taken to publicize the existence and location of their Reports. The above proposals merely provide parents and the public with access to information that broadcasters should already be recording.

**C. The Commission Should Use the Internet to Increase Parental Access to Information Concerning Educational Children's Television.**

In addition to the above recommendations, the Commission could increase the awareness and efficacy of its children's educational rules by using the Internet to increase parental access to information on children's educational programming. Primarily, the Commission should require broadcasters to post their Reports on their website. This requirement would impose a minimal burden on licensees while greatly increasing the accessibility of information to parents and the public. Requiring licensees to post their Reports on their website provides "easy public access to information" and would again promote reliance on market forces and facilitate enforcement of the CTA by helping concerned parents and the public to monitor a station's performance. *Children's Television Order*, 10660 FCC Rcd at 10682. Moreover, since a broadcaster is

required to post its Equal Employment Opportunity Files on its web-site,<sup>6</sup> there is no reason why a licensee should not do the same for its children's programming reports.

The Commission should also make its own website more user-friendly for parents. Currently, there is no link from the FCC's home page to information on children's educational television. To reach the FCC's webpage on children's television, a parent must know to click on the "major initiatives" link and then scroll down to the "children's television" link, which then leads to the webpage on children's television. If the parent is unaware that she needs to follow the above protocol to find the children's television webpage, then she could try using the FCC's search engine. However, entering the terms "children's television" into the search engine retrieves dozens of indecipherable documents. A parent could spend hours sifting through various Children's Television NPRMs, Orders and Policy Statements before arriving at the relevant link. A simple solution would be to add a permanent, clearly identifiable link to the children's television page on the FCC's homepage.<sup>7</sup>

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<sup>6</sup> *Review of the Commission's Equal Employment Opportunity Rules and Policies and Termination of the EEO Streamlining Proceeding*, Report and Order, FCC 00-20, at ¶ 124 (rel. Feb. 2, 2000).

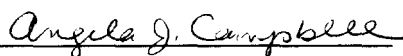
<sup>7</sup> The FCC should also be aware that numerous researchers have indicated they have had problems with retrieving information about a specific station using a licensee's call sign because the Form 398 search engine will only retrieve program reports that exactly match the request. For example, the entry "KWHY" would come back empty if the station liaison had filled out the field with "KWHY TV" or "KWHY-TV." There are several ways the FCC could address the problem, e.g. revising form 398 to limit the call sign field to the letters of the station or refining the search engine of the Form 398 webpage.

#### IV. CONCLUSION

The Children's Television Programming Reports are the linchpin of the Commission's public information policy. The Reports play an essential role in informing parents and the public about children's educational television and broadcasters' obligations to provide such programming. Without these filings, monitoring broadcasters' compliance with the Act - whether by parents, advocacy groups, researchers or the FCC - would be nearly impossible. CME *et al.* also maintain that the Commission could greatly improve the awareness and efficacy of these Reports by: (1) requiring a broadcaster to electronically file the Reports on a quarterly basis with the Commission; (2) amending FCC Form 398 to provide more information concerning a broadcaster's preemption practices, provision of programming information to program guide publishers and efforts to publicize the existence and location of its program reports; and (3) requiring a broadcast licensee to post its quarterly programming reports on its website and making the FCC website more user-friendly to parents.

Respectfully submitted,

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# APPENDIX

**The Center for Media Education (CME)** is a national nonprofit, nonpartisan organization dedicated to creating a quality electronic media culture for children, their families, and the community. CME's four-year national campaign led to the 1996 Federal Communications Rule requiring a weekly minimum of three hours of educational television programming. CME's report "Web of Deception" (1996) first drew attention to potentially harmful marketing and data-collection practices targeted at children on the Internet and laid the groundwork for the Children's Online Privacy Protection Act (COPPA).

**Peggy Charren** founded Action for Children's Television (ACT) in 1968. The 10,000-member national child advocacy organization encouraged responsible broadcasting. She is a visiting scholar at the Harvard University Graduate School of Education, where she serves on the Technical Council.

**The Annenberg Public Policy Center of the University of Pennsylvania** was established by publisher and philanthropist Walter Annenberg in 1994 to create a community of scholars within the University of Pennsylvania that would address public policy issues at the local, state and federal levels. Consistent with the mission of the Annenberg School for Communication, the Center has four ongoing foci: Information and Society, Media and the Developing Mind, Media and the Dialogue of Democracy and Health Communication. Each year, as well, a special area of scholarly interest is addressed. The Center supports research and sponsors lectures and conferences in these areas. The Center has offices in Philadelphia and Washington, DC.

**The American Academy of Child and Adolescent Psychiatry (AACAP)** is a nonprofit professional organization representing over 6,500 child and adolescent psychiatrists. Its members are physicians with at least five years of additional training beyond medical school in general and child and adolescent psychiatry. Its members actively research, diagnose and treat psychiatric disorders affecting children, adolescents, and their families. The AACAP is committed to protecting the well-being and rights of children and their families.

**The American Psychological Association (APA)** is the largest scientific and professional organization representing psychology in the United States. With more than 159,000 members, APA is also the largest association of psychologists worldwide. The APA works to advance psychology as a science, a profession, and a means of promoting human welfare.

**Sandra Calvert, Ph.D.**, is director of the Children and Media Project at Georgetown University, which examines the impact of The Children's Television Act on children's learning from programs that broadcasters have labeled as educational and informational. Dr. Calvert is a professor of psychology at Georgetown University, and her research activities involve the impact of information technologies such as television, computers,

and virtual reality on children's attention, comprehension, and social behavior. She recently published a book titled Children's Journeys Through the Information Age.

**The Center for Science in the Public Interest (CSPI)** is a nonprofit health-advocacy organization, founded in 1971 in Washington, DC, that focuses on alcoholic-beverage problems, nutrition, and food safety. A major focus of CSPI's efforts has involved the study and monitoring of alcoholic-beverage marketing practices that target and appeal to impressionable young people. CSPI led efforts to win passage of the law requiring warning labels on alcoholic beverages and has worked with CME to promote heightened legislative and regulatory scrutiny regarding online targeting of young people by alcohol and tobacco marketers and the development of effective safeguards to shield young people from unfair and deceptive advertising of harmful products.

**Children Now** is a nonpartisan, independent voice for children, working to translate the nation's commitment to children and families into action. Children Now uses communications strategies to reach parents, lawmakers, citizens, business, media and community leaders, creating attention and generating positive change on behalf of children. With particular concern for those who are poor or at risk, Children Now is committed to improving conditions for all children. Founded in 1988, Children Now is a national organization with special depth in California.

**The Council of Chief State School Officers (CCSSO)** is a nationwide, nonprofit organization composed of public officials who lead the departments responsible for elementary and secondary education in the states, the US extra-state jurisdictions, the District of Columbia, and the Department of Defense Education Activity. In representing the chief education officers, CCSSO works on behalf of the state agencies that serve pre K-12 students throughout the nation.

**Consumer Federation of America (CFA)** is a non-profit association of some 260 pro-consumer groups, with a combined membership of 50 million, that was founded in 1968 to advance the consumer interest through advocacy and education. CFA has worked closely with CME to defend the rights of children's privacy online and jointly published a consumer education brochure for parents and children entitled, The Internet, Privacy and Your Child: What You Need to Know as a Parent/Keeping Secrets About You on the Internet: A Kid's Guide to Internet Privacy.

**Dale Kunkel, Ph.D.**, is a professor of communication at the University of California at Santa Barbara (UCSB) and a member of UCSB's Center for Communication and Social Policy. Through this affiliation, Dr. Kunkel has worked on the National Television Violence Study -- the largest ongoing scientific study of television violence ever undertaken, as well as research that promotes the discussion of communication policy issues. Dr. Kunkel's renowned research on communications policy and children and television has resulted in many publications, including the upcoming Handbook of Children and Media, which he co-edited.

**The National Association for Elementary School Principals (NAESP)** was founded in 1921 by a group of principals who sought to promote their profession and to provide a national forum for their ideas. Over the past 75 years, NAESP has grown to become the most powerful voice of Pre-K-8 principals across the United States and around the world with a peer network of more than 27,000 principals worldwide. The NAESP is dedicated to ensuring the nation's continued strength and prosperity by assuring the best possible schooling for its most important resource, the children. Its mission is to serve as advocates for children and to help principals do the best job possible.

**The National Alliance for Non-violent Programming (NANP)** is a not-for-profit network of organizations with a long history of effective community involvement and education. Member organizations include the American Medical Women's Association, Jack and Jill of America, Inc., Jewish Women International, the Links, Inc., the National Association of Women Business Owners, National Council of LaRaza, Soroptimist International of the Americas, and YWCA of the U.S.A. With the capacity to reach two million people, NANP builds and supports community initiatives to promote and teach media literacy and non-violence. NANP headquarters in Greensboro, NC serves as the information, technical assistance, materials distribution and network center for member organizations, local initiatives and the general public.

**The National Black Child Development Institute (NBCDI)** advances a multi-faceted agenda to promote and protect the well-being of all African American children. NBCDI's programs assist children and families who are experiencing challenges in the areas of early care and education, health, parenting, education, and child welfare. NBCDI's affiliate chapters are comprised of volunteers which serve as a resource to people who are professionally and personally committed to children and families. NBCDI is based in Washington, DC.

**The National Education Association (NEA)** is America's oldest and largest organization committed to advancing the cause of public education. Founded in 1857, the NEA has over 2.3 million members who work at every level of education, from pre-school to university graduate programs. NEA has affiliates in every state as well as in over 13,000 local communities across the United States.

**The National PTA (PTA)** is the largest volunteer child advocacy organization in the United States. The National PTA is a not-for-profit organization of parents, educators, students, and other citizens active in their schools and communities, and is concerned with the education, health, and welfare of children and youth.